

APPEAL NO. 021725
FILED AUGUST 20, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on June 5, 2002, the hearing officer found that during the qualifying periods for the 13th and 14th quarters, the appellant (claimant) had the ability to perform some work but failed to make a good faith job search commensurate with her ability to work and concluded that the claimant is not entitled to supplemental income benefits (SIBs) for the 13th and 14th quarters. The claimant has appealed these determinations on evidentiary sufficiency grounds. The respondent (carrier) has filed a response, which rebuts the claimant's several contentions, and urges the sufficiency of the evidence to support the challenged findings.

DECISION

Affirmed.

This is a SIBs case and the requirements the claimant must meet to establish her continuing entitlement to SIBs are set out in Section 408.142 and 408.143 of the 1989 Act and in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §130.102 (Rule 130.102). Whether the claimant had the ability to perform work in any capacity during the qualifying periods at issue and whether she made a good faith effort to obtain employment commensurate with her ability to work presented the hearing officer with questions of fact to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer found that the reports of two doctors, one a designated doctor appointed to evaluate her ability to work, as well as the report of a functional capacity evaluation, showed that the claimant had the ability to work in at least a sedentary if not an even greater capacity, and that she did not look for work during each week of the qualifying periods. We are satisfied that the challenged findings are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **HIGHLANDS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JAMES HOOKER
10370 RICHMOND
HOUSTON, TEXAS 77042.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge